

ATTACHMENT 50

1
2 UNITED STATES DISTRICT COURT
3 FOR THE NORTHERN DISTRICT OF CALIFORNIA
4 SAN FRANCISCO DIVISION

5 - - - - -x
6 SURGICAL INSTRUMENT SERVICE COMPANY, INC.,
7 Plaintiff,
8 -against-
9 INTUITIVE SURGICAL, INC.,
10 Defendant.
11 - - - - -x

12 Virtual Zoom Deposition
13 March 6, 2023
14 8:30 a.m.

15
16 VIRTUAL VIDEO DEPOSITION of JEAN SARGENT,
17 in the above-entitled action, held at the
18 above time and place, taken before Jeremy
19 Richman, a Shorthand Reporter and Notary
20 Public of the State of New York, pursuant to
21 the Federal Rules of Civil Procedure, and
22 stipulations between Counsel.

23
24 * * *
25

<p>1 J. SARGENT</p> <p>2 Q. What does the number 13:43:53</p> <p>3 75 percent represent in this paragraph? 13:43:57</p> <p>4 A. That number would be the 13:43:59</p> <p>5 amount of times that a product was put 13:44:05</p> <p>6 in a bin to be returned to that third 13:44:09</p> <p>7 party for repair or refurbishment. 13:44:13</p> <p>8 Q. Are you assuming that all 13:44:16</p> <p>9 Vizient members would use this SIS 13:44:25</p> <p>10 reset service? 13:44:27</p> <p>11 A. My assumption is yes, because 13:44:30</p> <p>12 of the cost savings. 13:44:32</p> <p>13 Q. Okay. So when, what is the 13:44:34</p> <p>14 date you were thinking that this 13:44:39</p> <p>15 collection was taking place? 13:44:41</p> <p>16 A. When I was working with 13:44:42</p> <p>17 Marin, and Keith presented it to Marin 13:44:48</p> <p>18 and also presented bins for the 13:44:53</p> <p>19 EndoWrist to be placed in, that was 13:44:59</p> <p>20 when I thought it would be kicking off. 13:45:01</p> <p>21 And then it was stopped, and at that 13:45:03</p> <p>22 point I didn't know when it would be 13:45:08</p> <p>23 used again, because I didn't know when 13:45:10</p> <p>24 SIS would work through their issues 13:45:12</p> <p>25 with Da Vinci. 13:45:16</p> <p style="text-align: right;">Page 214</p>	<p>1 J. SARGENT</p> <p>2 MR. VAN HOVEN: Objection to 13:46:18</p> <p>3 form. 13:46:19</p> <p>4 A. No. 13:46:19</p> <p>5 Q. What robot, what model did 13:46:22</p> <p>6 MarinHealth have? 13:46:28</p> <p>7 MR. VAN HOVEN: Objection to 13:46:29</p> <p>8 form. 13:46:29</p> <p>9 A. Si. 13:46:29</p> <p>10 Q. Do you know how many Si 13:46:32</p> <p>11 EndoWrists Marin had in inventory? 13:46:42</p> <p>12 A. No. 13:46:48</p> <p>13 Q. Would you even be able to 13:46:49</p> <p>14 estimate? 13:46:51</p> <p>15 A. No. Every facility is 13:46:57</p> <p>16 different on what quantities they keep 13:46:59</p> <p>17 on hand. 13:47:01</p> <p>18 Q. So just so I understand, 13:47:01</p> <p>19 let's assume, for purposes of this 13:47:03</p> <p>20 discussion, that they have a hundred 13:47:07</p> <p>21 EndoWrists in inventory. Can you hold 13:47:09</p> <p>22 that assumption in your head? 13:47:10</p> <p>23 A. Yes. 13:47:12</p> <p>24 Q. And let's assume they 13:47:15</p> <p>25 collected 20, that in the process, when 13:47:16</p> <p style="text-align: right;">Page 216</p>
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<p>1 J. SARGENT</p> <p>2 75 percent of all Vizient member 13:56:29</p> <p>3 hospitals with an -- Si robots would 13:56:32</p> <p>4 participate in this program? 13:56:37</p> <p>5 MR. VAN HOVEN: Objection to 13:56:38</p> <p>6 form. 13:56:42</p> <p>7 A. Yes. 13:56:42</p> <p>8 Q. So you're not offering any 13:56:43</p> <p>9 opinion as to how many actual 13:56:44</p> <p>10 EndoWrists would be collected pursuant 13:56:49</p> <p>11 to this program from Vizient members; 13:56:50</p> <p>12 is that right? 13:56:53</p> <p>13 MR. VAN HOVEN: Objection to 13:56:53</p> <p>14 form. 13:56:55</p> <p>15 A. Correct. 13:56:55</p> <p>16 Q. And am I right, you are not 13:56:55</p> <p>17 offering any opinions about the 13:56:57</p> <p>18 collection or penetration rates of 13:57:00</p> <p>19 non-Vizient member hospitals, correct? 13:57:03</p> <p>20 A. Correct. 13:57:06</p> <p>21 Q. Mr. Johnson did not tell you 13:57:07</p> <p>22 anything about the collection rate that 13:57:13</p> <p>23 SIS expected; is that right? 13:57:16</p> <p>24 A. No, not that I recall. 13:57:21</p> <p>25 Q. What analysis did you do to 13:57:22</p> <p style="text-align: right;">Page 226</p>	<p>1 J. SARGENT</p> <p>2 56, correct? 13:58:24</p> <p>3 A. Yes. 13:58:25</p> <p>4 Q. What did you mean by that? 13:58:36</p> <p>5 A. Similar to what I just 13:58:42</p> <p>6 mentioned. We had a -- there's an 13:58:43</p> <p>7 opportunity to mitigate expenses, as 13:58:46</p> <p>8 well as patient safety, by starting a 13:58:51</p> <p>9 collection or reprocessing of a 13:58:54</p> <p>10 product. And it occurred immediately. 13:58:56</p> <p>11 Q. You did not look at any 13:58:58</p> <p>12 literature to identify general industry 13:59:03</p> <p>13 collection rates, am I right about 13:59:09</p> <p>14 that? 13:59:10</p> <p>15 A. Correct. 13:59:10</p> <p>16 Q. Did you look at any industry 13:59:11</p> <p>17 data to understand what general 13:59:14</p> <p>18 industry collection rates are? 13:59:16</p> <p>19 A. No. 13:59:17</p> <p>20 Q. Did you look at any studies 13:59:25</p> <p>21 that have been done about general 13:59:27</p> <p>22 industry collection rates? 13:59:29</p> <p>23 A. No. It's based on my 13:59:35</p> <p>24 experience. 13:59:36</p> <p>25 Q. Did you look at any studies 13:59:36</p> <p style="text-align: right;">Page 228</p>
<p>1 J. SARGENT</p> <p>2 arrive at the 75 percent number you 13:57:26</p> <p>3 list in your report, as opposed to any 13:57:28</p> <p>4 other number that you could have put 13:57:30</p> <p>5 there? 13:57:34</p> <p>6 MR. VAN HOVEN: Objection to 13:57:34</p> <p>7 form. 13:57:35</p> <p>8 A. Based on my experience, in 13:57:35</p> <p>9 the reprocessing of products to reduce 13:57:40</p> <p>10 costs, most hospitals have a high rate 13:57:44</p> <p>11 of return for those types of products. 13:57:48</p> <p>12 And actually, just recently I saw a 13:57:52</p> <p>13 hospital that on Wednesday they said, 13:57:54</p> <p>14 You know what, we need to start 13:57:56</p> <p>15 collecting a tourniquet that is on 13:57:58</p> <p>16 manufacturer back order, but it can be 13:58:02</p> <p>17 reprocessed, so we need to start 13:58:04</p> <p>18 collecting them. That was on 13:58:06</p> <p>19 Wednesday. On Friday, the bins were in 13:58:07</p> <p>20 ORs and the collections had started. 13:58:09</p> <p>21 So that's when I mentioned that it's a 13:58:12</p> <p>22 quick and easy process. It can be a 13:58:16</p> <p>23 very quick and easy process. 13:58:18</p> <p>24 Q. You referenced general 13:58:20</p> <p>25 industry collection rates in paragraph 13:58:21</p> <p style="text-align: right;">Page 227</p>	<p>1 J. SARGENT</p> <p>2 of individual instrument collection 13:59:38</p> <p>3 programs? 13:59:41</p> <p>4 MR. VAN HOVEN: Objection to 13:59:43</p> <p>5 form. 13:59:46</p> <p>6 A. No. 13:59:46</p> <p>7 Q. Did you look at any 13:59:50</p> <p>8 literature about individual instrument 13:59:52</p> <p>9 collection programs? 13:59:55</p> <p>10 A. No. 13:59:57</p> <p>11 Q. Did you talk to any Vizient 14:00:04</p> <p>12 member hospitals about whether they 14:00:07</p> <p>13 would take advantage of the SIS 14:00:09</p> <p>14 program? 14:00:10</p> <p>15 A. No. 14:00:13</p> <p>16 Q. Did you talk to any Vizient 14:00:13</p> <p>17 hospitals back in 2019, besides Marin, 14:00:18</p> <p>18 about whether they would take advantage 14:00:21</p> <p>19 of this program being offered by SIS? 14:00:23</p> <p>20 A. No, I didn't have the 14:00:28</p> <p>21 opportunity. 14:00:29</p> <p>22 Q. Okay. So am I right that you 14:00:30</p> <p>23 cannot tell me the number of hospitals 14:00:35</p> <p>24 that you are assuming that SIS would be 14:00:38</p> <p>25 collecting EndoWrists from; is that 14:00:42</p> <p style="text-align: right;">Page 229</p>

<p>1 J. SARGENT</p> <p>2 Q. If you can look at paragraph 15:41:12</p> <p>3 27 of Mr. Goodwin's report. 15:41:14</p> <p>4 A. Mm-hmm. 15:41:18</p> <p>5 Q. Let me know when you've had a 15:41:19</p> <p>6 chance to read that. 15:41:20</p> <p>7 A. Okay. 15:41:58</p> <p>8 Q. You did not respond to that 15:41:58</p> <p>9 paragraph in your rebuttal report; is 15:42:01</p> <p>10 that correct? 15:42:04</p> <p>11 A. Correct. 15:42:04</p> <p>12 Q. Same question, why don't you 15:42:05</p> <p>13 read paragraphs 28 and 29 to yourself 15:42:16</p> <p>14 and when you're done, let me know. 15:42:18</p> <p>15 A. Okay. 15:42:52</p> <p>16 Q. Your rebuttal report does not 15:42:53</p> <p>17 respond to either paragraphs 28 or 29, 15:42:54</p> <p>18 correct? 15:42:57</p> <p>19 A. Correct. 15:42:58</p> <p>20 MR. LAZEROW: All right, take 15:43:01</p> <p>21 a break. 15:43:01</p> <p>22 THE VIDEOGRAPHER: We are off 15:43:02</p> <p>23 the record, the time is 3:43 p.m. 15:43:06</p> <p>24 Eastern time. 15:43:09</p> <p>25 (Recess.) 15:43:36</p> <p style="text-align: right;">Page 306</p>	<p>1 J. SARGENT</p> <p>2 came up with a similar process. Then 15:56:33</p> <p>3 it would -- then SIS would be affected. 15:56:37</p> <p>4 Q. But your collection rate and 15:56:41</p> <p>5 conversion rate assume that SIS is the 15:56:46</p> <p>6 only entity offering that service to 15:56:49</p> <p>7 Vizient members, correct? 15:56:53</p> <p>8 MR. VAN HOVEN: Objection to 15:56:54</p> <p>9 form. 15:56:54</p> <p>10 A. Yes. 15:56:54</p> <p>11 Q. And those numbers would be 15:56:56</p> <p>12 lower if there was another entity 15:57:00</p> <p>13 offering that service to Vizient 15:57:02</p> <p>14 members, correct? 15:57:06</p> <p>15 MR. VAN HOVEN: Objection to 15:57:06</p> <p>16 form. 15:57:08</p> <p>17 A. Yes. 15:57:08</p> <p>18 Q. And am I also right that the 15:57:10</p> <p>19 penetration rate you've identified 15:57:15</p> <p>20 applies only to Vizient members? 15:57:16</p> <p>21 A. Yes. 15:57:23</p> <p>22 Q. You have not done anything to 15:57:23</p> <p>23 investigate whether non-Vizient members 15:57:26</p> <p>24 would achieve collection rates or 15:57:28</p> <p>25 penetration rates at the numbers you've 15:57:30</p> <p style="text-align: right;">Page 308</p>
<p>1 J. SARGENT</p> <p>2 THE VIDEOGRAPHER: We are 15:55:25</p> <p>3 back on the record, the time is 15:55:27</p> <p>4 3:55 p.m. Eastern time. 15:55:29</p> <p>5 Q. Ms. Sargent, am I right that 15:55:33</p> <p>6 you do not know what the actual 15:55:35</p> <p>7 collection rate of EndoWrists were at 15:55:36</p> <p>8 Marin when it was involved with SIS's 15:55:40</p> <p>9 resetting service? 15:55:48</p> <p>10 A. Correct. 15:55:48</p> <p>11 Q. Am I right, you do not know 15:55:49</p> <p>12 the collection rate of any hospital 15:55:50</p> <p>13 with respect to SIS's service for 15:55:52</p> <p>14 resetting EndoWrists? 15:55:55</p> <p>15 A. Correct. 15:55:59</p> <p>16 Q. And am I also right that 15:55:59</p> <p>17 you're assuming that whatever Vizient 15:56:01</p> <p>18 members sign up for resetting an 15:56:06</p> <p>19 EndoWrist, that SIS would get all of 15:56:17</p> <p>20 that volume, right? 15:56:20</p> <p>21 A. As described, yes. 15:56:21</p> <p>22 Q. No other entity would get any 15:56:22</p> <p>23 volume of resetting of EndoWrists among 15:56:23</p> <p>24 the Vizient members, right? 15:56:27</p> <p>25 A. Unless another third party 15:56:28</p> <p style="text-align: right;">Page 307</p>	<p>1 J. SARGENT</p> <p>2 put in your opening report, correct? 15:57:31</p> <p>3 A. Correct. 15:57:33</p> <p>4 Q. Can you look, please, at your 15:57:36</p> <p>5 rebuttal report, and I'm going to -- 15:57:43</p> <p>6 which is DX230, and I'm going to -- 15:57:52</p> <p>7 paragraph 12, which is on page 3. 15:57:55</p> <p>8 A. Yes. 15:58:03</p> <p>9 Q. This paragraph talks about 15:58:04</p> <p>10 the example you provide of hospitals 15:58:05</p> <p>11 that were reprocessing single-use 15:58:07</p> <p>12 devices, correct? 15:58:09</p> <p>13 A. Correct. 15:58:12</p> <p>14 Q. And did any hospitals you 15:58:13</p> <p>15 worked at reprocess single-use devices? 15:58:18</p> <p>16 A. Yes. 15:58:23</p> <p>17 Q. And did the hospitals you 15:58:26</p> <p>18 work at do that in house, or did they 15:58:29</p> <p>19 send them out for service to third 15:58:32</p> <p>20 parties? 15:58:37</p> <p>21 A. In house. 15:58:37</p> <p>22 Q. Were you -- did you ever tell 15:58:38</p> <p>23 any of those hospitals that they were, 15:58:40</p> <p>24 these devices were only supposed to be 15:58:43</p> <p>25 used once? 15:58:45</p> <p style="text-align: right;">Page 309</p>